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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 JAMIE GILES,

8 Plaintiff,

9 v.

10 PAROLE BOARD COMMISSION;
11 OFFENDER MANAGEMENT DIVISION.

12 Defendants.

Case No. 2:19-cv-01133-RFB-GWF

ORDER

13 **I. INTRODUCTION**

14 Before this Court is Plaintiff's Complaint. ECF No. 1-1. Plaintiff has not yet filed an
15 application to proceed in forma pauperis nor a filing fee. However, for the reasons stated below,
16 the Court finds that it is appropriate to dismiss Plaintiff's Complaint on the merits.

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18 **II. DISCUSSION**

19 Plaintiff alleges that he was sentenced in violation of the Fifth Amendment's protection
20 against double jeopardy. Plaintiff seeks to hold Defendants accountable for his allegedly unlawful
21 sentence pursuant to 42 U.S.C. § 1983.

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23 Plaintiff may not obtain relief pursuant to 42 U.S.C. § 1983 for any allegation that bears
24 relationship to a sentence that has not been invalidated. Heck v. Humphrey, 512 U.S. 477, 487
25 (1994). Plaintiff's Complaint clearly constitutes an attack on the legitimacy of his sentence.
26 Because Plaintiff's allegation is inconsistent with the possibility that his sentence already "has
27 been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal
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1 authorized to make such determination, or called into question by a federal court's issuance of a
2 writ of habeas corpus,” the Section 1983 Complaint must be dismissed with prejudice. Id. at 486–
3 87. Section 1983 is simply not the appropriate vehicle for Plaintiff’s allegation. Rather, a petition
4 for writ of habeas corpus is “the exclusive federal remedy” for “whenever the requested relief
5 requires as its predicate a determination that a sentence currently being served is invalid or
6 unconstitutionally long.” Young v. Kenny, 907 F.2d 874, 876 (9th Cir. 1989).
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9 **III. CONCLUSION**

10 For the reasons stated,

11 **IT IS ORDERED** that the Complaint is DISMISSED.
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13 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment for
14 Defendants. The Clerk of Court is instructed to close this case.
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16 DATED: July 1, 2019.
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18 **RICHARD F. BOULWARE, II**
19 **UNITED STATES DISTRICT JUDGE**
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